

Message Text

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PAGE 01 CARACA 05229 081712Z
ACTION EB-08

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E.O. 11652: N/A
TAGS: EAIR VE
SUBJECT: CIVAIR - PROPOSED BILATERAL TAX ARRANGEMENT

1. AMBASSADOR TIRADO HAS ADVISED EMBOFF THAT HE CONSIDERS PROPOSED LANGUAGE CONTAINED REFTEL PARA 6 NOT ACCEPTABLE. HE ARGUES THAT VENEZUELAN INCOME TAX LAW REQUIRES CLOSE RECIPROCITY IN THE ECONOMIC SENSE AND STRICT RECIPROCITY IN TERMS OF THE TYPE OF COMPANY TO BE AFFECTED. PRACTICALLY SPEAKING, THIS MEANS THAT AIRLINE COMPANIES OPERATING SCHEDULED SERVICE TO VENEZUELA MAY BE EXEMPTED, BUT NOT SUPPLEMENTALS.

2. FOR THE DEPARTMENT'S INFORMATION, ARTICLE 14, PARAGRAPH 7 READS IN PART AS FOLLOWS (EMBASSY TRANSLATION):
"ARTICLE 14: THE NATIONAL EXECUTIVE...MAY EXCLUDE FROM TAXATION:

7. FOREIGN COMPANIES ENGAGED IN THE INTERNATIONAL TRANSPORTATION OF CARGO OR PASSENGERS, AS LONG AS THERE EXISTS STRICT RECIPROCITY WITH RESPECT TO EXEMPTION FROM TAXES IN THE RESPECTIVE COUNTRY FOR VENEZUELAN COMPANIES. IN THESE CASES, THE BENEFIT OBTAINED BY THE FOREIGN TAXPAYER AS A RESULT OF THE EXEMPTION WILL BE EQUAL OR EQUIVALENT
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PAGE 02 CARACA 05229 081712Z

TO THAT OBTAINED BY NATIONAL TAXPAYERS BY VIRTUE OF RECIPROCITY."

3. WITH RESPECT TO PARA 10 OF REFTEL, THE GOV DENIES THAT U.S. SUPPLEMENTAL TRAFFIC IS MINISCULE IN RELATION TO MARKET. IN 1976, LAST YEAR FOR WHICH COMPLETE STATISTICS AVAILABLE HERE, THERE WERE 53,000 REGULARLY

SCHEDULED ARRIVALS AND DEPARTURES, AND 14,8000 CHARTER AND
EXTRA SECTION ARRIVALS AND DEPARTURES.

4. WHILE AS A MATER OF PRACTICE SUPPLEMENTALS NOT NOW
PAYING INCOME TAXES, UNDER VENEZUELAN LAW THEY ARE LIABLE
TO DO SO. TIRADO CANNOT MAKE ANY COMMITMENTS REGARDING
HOW LONG SUPPLEMENTALS WILL BE ABLE TO CONTINUE TO ENJOY
INFORMAL EXEMPTION FROM TAX PAYMENT, AND THEREFORE IS UNWILLING
TO BASE EXEMPTION FOR VENEZUELAN COMPANIES FROM PAYMENT OF
U.S. TAX ON CONTINUATION OF THIS PRACTICE.

5. WE ARE NOT AWARE OF ANY DESIRE ON THE PART OF VENEZUELA
TO CONFORM TO A COMMON POLICY WITH OTHER LATIN COUNTRIES
ON SUPPLEMENTALS. AS A MATTER OF FACT, THE GOV ALMOST
ALWAYS APPROVES CHARTER REQUESTS, WITH THE EXCEPTION OF
GATEWAY CHARTER TRAFFIC.

6. DURING CONVERSATION TIRADO REITERATED EARLIER SUGGESTION
(CARACAS 304) THAT WE EXPLORE ADMINISTRATIVE SOLUTION
TO THIS PROBLEM. HE SUGGESTED THAT IT AMY BE POSSIBLE FOR
EACH COUNTRY TO TAKE ADMINISTRATIVE ACTION AT THE END OF
EACH TAX YEAR EXCLUDING SPECIFIED AIRLINES FROM LIABILITY
TO PAY INCOME TAXES. WHILE EXEMPTION WOULD HAVE TO BE
BASED ON STRICT RECIPROCITY IN TERMS OF VALUE, THIS
OPTION WOULD APPEAR TO AVOID PROBLEMS OF DEFINITIONS NOW
STYMYING RPAID RESOLUTION OF TAX EXEMPTION ISSUE.
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PAGE 03 CARACA 05229 081712Z

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